

# EXHIBIT 3

**In the Matter of:**  
**CONSOLIDATED INDUSTRIES, LLC**  
**vs.**  
**JESSE A. MAUPIN, et al.**

**BRIAN NAPPER**

*June 10, 2025*



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Ph.(615) 595-0073

1 UNITED STATES DISTRICT COURT  
2 WESTERN DISTRICT OF TENNESSEE EASTERN DIVISION  
3 -----X  
4 CONSOLIDATED INDUSTRIES, LLC d/b/a WEATHER KING  
5 PORTABLE BUILDINGS,

6 Plaintiff,

7 vs. No. 1:22-cv-01230-STA-jay

8 JESSE A. MAUPIN, BARRY D. HARRELL, ADRIAN S.  
9 HARROD, LOGAN C. FEAGIN, STEPHANIE L.  
10 GILLESPIE, RYAN E. BROWN, DANIEL J.  
11 HERSHBERGER, BRIAN L. LASSEN, ALEYNA LASSEN,  
12 and AMERICAN BARN CO., LLC,

13 Defendants.  
14 -----X

15 48 Wall Street  
16 New York, New York  
17 June 10, 2025  
18 8:59 a.m.

19 EXAMINATION BEFORE TRIAL of  
20 BRIAN WILLIAM NAPPER, taken by Plaintiff,  
21 pursuant to Federal Rules of Civil Procedure,  
22 and Order, held at the above-noted time and  
23 place, before Kristen Stein, a Stenotype  
24 Reporter and Notary Public within and for the  
25 State of New York.

1 F E D E R A L S T I P U L A T I O N S

2  
3  
4 IT IS HEREBY STIPULATED AND AGREED by and  
5 between the attorneys for the respective  
6 parties herein, that the sealing, filing and  
7 certification of the within deposition be  
8 waived;

9 IT IS FURTHER STIPULATED AND AGREED that all  
10 objections, except as to form, are reserved to  
11 the time of trial;

12 IT IS FURTHER STIPULATED AND AGREED that the  
13 transcript of this deposition may be signed  
14 before any Notary Public, with the same force  
15 and effect as if signed before a clerk or  
16 Judge of the Court;

17 IT IS FURTHER STIPULATED AND AGREED that all  
18 rights provided to all parties by the F.R.C.P.  
19 cannot be deemed waived, and the appropriate  
20 sections of the F.R.C.P. shall be controlling  
21 with respect thereto.

22  
23 oo0oo  
24  
25

1 A P P E A R A N C E S :

2 BUTLER SNOW LLP  
3 Attorneys for Plaintiff  
4 1320 Adams Street, Suite 1400  
5 Nashville, Tennessee 37208

6  
7 BY: JOHN H. DOLLARHIDE, ESQ.  
8 DAVID L. JOHNSON, ESQ.

9 TAFT STETTINIUS & HOLLISTER LLP  
10 Attorneys for Defendants and Witness  
11 BRIAN WILLIAM NAPPER,  
12 JESSE A. MAUPIN, BARRY D. HARRELL,  
13 ADRIAN S. HARROD, LOGAN C. FEAGIN,  
14 STEPHANIE L. GILLESPIE, RYAN E. BROWN,  
15 DANIEL J. HERSHBERGER, BRIAN L. LASSEN,  
16 ALEYNA LASSEN, and AMERICAN BARN CO.,  
17 LLC,  
18 111 East Wacker Drive, Suite 2600  
19 Chicago, Illinois 60601  
20 BY: THOMAS G. PASTERNAK, ESQ.

21 A L S O P R E S E N T :

22 JESSE A. MAUPIN, BARRY D. HARRELL, WADE  
23 ETHERTON  
24  
25

1  
2 BRIAN WILLIAM NAPPER,  
3 Expert Witness, having first been  
4 duly sworn by the Notary Public, in and of the  
5 State of New York, was examined and testified  
6 as follows:

7 THE COURT REPORTER: Please state  
8 your name for the record.

9 THE WITNESS: Brian William  
10 Napper.

11 THE COURT REPORTER: Where do you  
12 reside?

13 THE WITNESS: 101 Montgomery  
14 Street, 21st floor, San Francisco,  
15 California.

16 EXAMINATION BY  
17 MR. DOLLARHIDE:

18 Q. Good morning, Mr. Napper, my name  
19 is John Dollarhide, we met briefly outside, I  
20 represent the plaintiffs in this action, I'm  
21 going to be taking your deposition today; do  
22 you understand that?

23 A. Yes.

24 Q. You've had a lot of depositions?

25 A. Yes.

1 **B. NAPPER**  
2 **owning stock or shares in the company as being**  
3 **an owner.**  
4 Q. As do I. Again, my question to  
5 you after that was; being a member in an LLC  
6 or being a partner in a partnership would also  
7 qualify as an owner, so does that change any  
8 of your previous answers?  
9 **A. It does not.**  
10 Q. Okay.  
11 What about Ocean Tomo?  
12 **A. Ocean Tomo, I was a shareholder**  
13 **in Ocean Tomo.**  
14 Q. You were?  
15 **A. I was.**  
16 Q. You're no longer?  
17 **A. Since JS Held acquired us, I have**  
18 **shares in JS Held.**  
19 Q. So do you work for Ocean Tomo or  
20 JS Held?  
21 **A. JS Held.**  
22 Q. What is your title at JS Held?  
23 **A. Senior managing director.**  
24 Q. What duties do you perform for  
25 JS Held?

1 **B. NAPPER**  
2 **A. Same type of work I've described,**  
3 **which is valuation work, outside of disputes,**  
4 **and disputes work and advisory work.**  
5 Q. Do you have any experience in  
6 operating a business?  
7 **A. I'm hesitating, Mr. Dollarhide,**  
8 **because, again, I have run and been a leader**  
9 **in very small consulting firms where I was one**  
10 **of the leaders that would -- you could define**  
11 **that as running the consulting group along**  
12 **with two or three other people.**  
13 Q. Do you have any experience in  
14 operating a business that sold consumer goods?  
15 **A. No.**  
16 Q. You don't have any experience in  
17 selling portable buildings?  
18 **A. No.**  
19 Q. Have you ever been in the  
20 military?  
21 **A. My father was, but, no, I was**  
22 **not.**  
23 Q. Have you ever been a party to a  
24 lawsuit, have you ever been a plaintiff in a  
25 lawsuit or named as a defendant in a lawsuit?

1 **B. NAPPER**  
2 **A. No.**  
3 Q. Have you ever filed for  
4 bankruptcy?  
5 **A. No.**  
6 Q. Has any business that you've been  
7 an owner of filed for bankruptcy?  
8 **A. No.**  
9 Q. Have you been convicted of any  
10 crime?  
11 **A. No.**  
12 Q. What did you do to prepare for  
13 your deposition today?  
14 **A. I reviewed my materials, my**  
15 **reports, if you will, in this matter and**  
16 **reviewed some of the underlying documents.**  
17 **And then I reviewed a couple of days ago**  
18 **deposition transcripts that have taken place**  
19 **after my report was filed in this matter, I**  
20 **think the date of the report was May 7, 2025,**  
21 **so I think Ms. Coker, I briefly reviewed her**  
22 **transcripts. And there was another person**  
23 **whom I can't remember whom I reviewed their**  
24 **transcript.**  
25 Q. What was the subject of the

1 **B. NAPPER**  
2 latter?  
3 **A. I don't remember.**  
4 Q. Do you remember if it was a  
5 witness for the plaintiff or a witness for the  
6 defendants?  
7 **A. I think it was a witness for the**  
8 **plaintiff.**  
9 Q. Was it Tim Boyd?  
10 **A. That sounds right, thank you.**  
11 Q. Anyone else?  
12 **A. I reviewed the deposition of**  
13 **Scott Barrymore, I believe his deposition was**  
14 **on the same day as my report was issued, but I**  
15 **hadn't seen the transcript.**  
16 Q. Did you speak with or meet with  
17 anybody to prepare for your deposition today?  
18 **A. Yes, I met with Mr. Pasternak.**  
19 Q. Only Mr. Pasternak?  
20 **A. I believe so.**  
21 Q. When did y'all meet?  
22 **A. Yesterday.**  
23 Q. How long?  
24 **A. An hour.**  
25 Q. Anyone else present?

1 B. NAPPER

2 A. No.

3 Q. What did you discuss?

4 A. We generally discussed one issue,

5 which was the information that was forthcoming

6 on the same day of the depositions

7 Mr. Pasternak reminded me that he was taking

8 the depositions of Scott Barrymore, I believe,

9 and Tim Boyd, if I'm not mistaken, if I have

10 those names right.

11 Q. Berryman.

12 A. Berryman, I'm sorry, the same day

13 that I was issuing my report, so he reminded

14 me of that, that I didn't have the

15 transcripts, and we just talked about the fact

16 that we had talked after that deposition, and

17 he'd given me sort of a download, if you will.

18 Q. A download of what?

19 A. Of what the testimony was that

20 same day.

21 Q. This was in the meeting

22 yesterday?

23 A. No, we'd had a phone call on the

24 afternoon of May 7, 2025.

25 Q. Did you meet with Mr. Pasternak

1 B. NAPPER

2 between May 7th and yesterday?

3 A. I did not.

4 Q. What did you speak about

5 yesterday?

6 A. Again, we talked about the fact

7 that those deposition transcripts were not

8 available, those being the ones done on May 7,

9 2025, and so we briefly talked about that, and

10 I think he mentioned that Mr. Southard may

11 have attempted to do additional analyses, and

12 I didn't look at those.

13 Q. Okay.

14 Why didn't you look at those?

15 A. Well, I didn't know if it was

16 appropriate for him to supplement, so I didn't

17 review those -- I don't think it was a report,

18 I think it was some sort of schedule that

19 Mr. Southard had performed.

20 Q. Did you review that?

21 A. No.

22 Q. But you're aware of it?

23 A. I'm aware of it, yes.

24 Q. Did you become aware of it

25 through Mr. Pasternak?

1 B. NAPPER

2 A. Yes.

3 Q. Did you ask to see the report?

4 A. I did not.

5 MR. PASTERNAK: Objection, there

6 is no report.

7 Q. Did you ask to see the schedules?

8 A. I did not ask to see them, no.

9 Q. Previously you said one of your

10 answers was referencing not proper for him to

11 supplement, is that something that you came up

12 with?

13 A. No, it's not -- I'm not a legal

14 expert; however, I have a lot of experience in

15 the space. And so -- but in any event, I just

16 didn't feel it was appropriate for me to be

17 looking at something that was not part of the

18 back and forth, the dates of the supplemental

19 and rebuttal type of reports, the schedule

20 from the case.

21 Q. So, walk me through how it came

22 to be that you became aware of this report or

23 the schedules, this additional analysis, but

24 it sounds like you made the decision not to

25 review it?

1 B. NAPPER

2 A. No, I think it was more of a

3 joint decision. I asked -- well, I didn't

4 know whether there was leave to amend, if you

5 will, for lack of a better term for

6 Mr. Southard, I didn't see that in the

7 trial -- the case transcripts -- I'm sorry,

8 the case schedule. Because that's what we

9 looked at, I have a lot of cases and I track

10 when things are due. And I had not seen that,

11 and so the decision was made for me not to

12 review those, because one; didn't seem to be

13 consistent with the case schedule. And two;

14 it was literally the, you know, a day or two

15 before my deposition, and I didn't have time

16 to review the schedules.

17 Q. You talked with Mr. Pasternak for

18 an hour?

19 A. Yes.

20 Q. And you talked for an hour about

21 him reminding you of the fact that there were

22 transcripts that were not available on the

23 date of your report?

24 A. Yes, and a conversation we'd had

25 after those depositions, yes.

**B. NAPPER**

Q. And in that hour, talking about him reminding you that the transcripts weren't available on May 7th, you didn't have time to review schedules?

**A. I don't understand that question, Mr. Dollarhide.**

Q. Do you know how many pages the schedules were?

**A. No.**

Q. How would you know whether you had time to review them or not?

**A. I take a lot of time to do any kind of review of information, I don't just do it on the fly, so I was certainly not comfortable looking at schedules that have been produced, in my words, late in this -- if any opportunity to provide those schedules.**

Q. Do you not think that would be helpful to the jury -- I mean, what I'm getting at is, isn't -- do you understand what the subject of Mr. Southard's supplemental schedule was?

**A. No, not really.**

Q. You said additional analysis, do

**B. NAPPER**

you know anything more than that?

**A. No.**

Q. Are you aware that it was valuations using the three primary methodologies of valuation of Weather King?

**A. That would be completely inconsistent with the original analysis that he performed.**

Q. One of the subjects of your opinion in this case, or at least your report, is that Mr. Southard did not conduct this analysis, that was one of your criticisms of him, was it not?

**A. It was one of my observations that he only used one approach for valuation, correct.**

Q. So his supplement, the schedule conducts those valuations that you observed that he did not do, so what I'm asking you now is, if it was noteworthy enough for you to put it in your report that he did not do those things, you didn't find it important enough to review when he actually did it?

**A. When he actually did the**

**B. NAPPER**

**supplemental analysis?**

Q. Right.

**A. I don't know when he did those, but it was, again, my understanding that was not consistent with the case schedule to have an opportunity to do a rebuttal to -- and even a supplement, if you want to call it that, to his report.**

Q. So would you agree with me that the case schedule is very important?

**A. I don't know what you mean by important, it's more that it --**

Q. Well, would you agree with me that the case schedule, we have to adhere to it?

**A. We should adhere to it, yes.**

Q. Is there any reason why we would go around the case schedule or disregard the case schedule?

**A. I don't know what folks' motivations are for disregarding the case schedule.**

Q. You didn't want to disregard the case schedule to look at Mr. Southard's

**B. NAPPER**

supplement, did you?

**A. I've explained, Mr. Dollarhide, that that was one of the reasons, the second reason is, it came in quite late and I have other cases to work on as well, and I don't have any of the underlying documentation if indeed he used -- Mr. Southard used three different approaches, instead of the primary one or the only one he used in his previous, there must be documents, underlying documents, that he should be producing as well, so I can actually look at it and understand it. And I didn't have access to any of that information.**

Q. Okay.

Did you make any notes from your conversations with Mr. Pasternak?

**A. No.**

Q. Do you have any notes from your analysis at all?

**A. No.**

MR. DOLLARHIDE: Let's mark this as Exhibit 2 (handing).

(Expert report was marked as Plaintiff's Exhibit 2, for



**B. NAPPER**

Q. All right, turning to Page 30, Paragraph 76, you say there are different methods to calculate damages for trade secret misappropriation, you understand that DTSA provides damages for actual loss, unjust enrichment or reasonable royalty, that's from the Federal Defend Trade Secrets Act; is that right?

A. Correct.

Q. And, do you have any opinion about the Tennessee Uniform Trade Secrets Act and what remedies it provides?

A. Not that I recall.

Q. You choose not to offer the jury any lost profit calculation, you're only making observations about Mr. Southard's report and then offering these two theories that we are going to get to, why did you not offer your own lost profits damages analysis?

A. Well, first and foremost, the term lost profits, doesn't appear anywhere in Mr. Southard's report.

Q. I'm not asking you about Mr. Southard's report, I'm saying why didn't

**B. NAPPER**

you offer your own lost profits analysis?

A. I didn't think that was -- based upon on the information I understand in this case, the trade secrets at issue and the breach of duty of loyalty, that lost profits would be an appropriate approach.

Q. Why is that?

A. I think because there's competition, I think from a high level standpoint there's nothing preventing folks from leaving a company and contacting former customers. What I understand is that there's allegations in this case of trade secrets being misappropriated, which maybe helps make sales, and the breach of duty of loyalty where that happened too early, if you will, it happened while the departing employees were still at Weather King, so that's a different concept of what the question you're asking. So there's nothing wrong with competing for customers in a marketplace.

Q. Is it your testimony that there was nothing wrong with what the defendants did?

**B. NAPPER**

A. No, that's why I was trying to differentiate, but you got distracted, I understand that. So what I'm saying is that that is because of the facts and circumstances of the allegations in this case, I felt it better to use trade secrets, misappropriation damages, as I discussed in my report, and breach of duty of loyalty and to try to quantify the damages associated with each one of those.

Q. Why didn't you do that with respect to tortious interference with business relations?

A. I wasn't asked to look at that.

Q. What about civil conspiracy?

A. Same, I was not asked to opine on that.

Q. Aiding and abetting?

A. Not asked to opine on that.

Q. Conversion?

A. Not asked to opine on that.

Q. Any other causes of action?

A. No, but I will suggest, Mr. Southard doesn't even list out any cause

**B. NAPPER**

of action. None, zero. And he's Plaintiff's damages expert, so I was kind of working in a little bit of a vacuum.

Q. Do you understand that lost profits is a measure of damages available under the Defend Trade Secrets Act?

A. Actual lost, I think is how it's described. I don't know about the availability of lost profits under the DTSA, I'm trying to recall if I've done that. But could be because I don't think that -- yeah, okay.

Q. You don't think you've done that?

A. I can't recall one way or the other. I don't even know if Mr. Southard has done that. But I'm giving more clarity; are you suggesting to me that Mr. Southard did a lost profit calculation? It doesn't say that. And he did as a result of trade misappropriation? Is that your -- are you asking me to assume that he did that?

Q. I think it's clear that you assumed that he did not do that.

A. I don't know what he did.